

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

JEFFREY ROTHMAN,

Plaintiff,

-against-

THE CITY OF NEW YORK, ET AL.,

Defendants.

No. 19 Civ. 0225 (CM)

**ORDER REGARDING PLAINTIFF'S MOTION FOR SANCTIONS**

McMahon, C.J.:

On November 21, 2019, the Honorable Ona T. Wang, U.S.M.J., issued an order denying Plaintiff Jeffrey Rothman's Motion for Sanctions against the Defendants for their alleged spoliation of security video footage and audio recordings of the altercation during which Detective Wunsch snatched the Plaintiff's pen. (Dkt. No. 72.)

Pretrial matters decided by a magistrate judge that are "not dispositive of a party's claim or defense" are subject to review, upon timely objection, by the district court on a "clearly erroneous or contrary to law standard." Fed. R. Civ. P. 72(a); *see also* 28 U.S.C. § 636(b)(1)(A). An order denying sanctions, which does not dispose of a claim or defense, is one such matter.

Judge Wang provided a number of valid reasons for her denial, many of which stem from this Court's prior determination that "no depositions, requests for production of documents or interrogatories will be allowed, as these methods of discovery would not promote the speedy or inexpensive resolution of this [he said-he said] case." (Dkt. No. 37 at 40.) For instance, Judge Wang explained that, even if spoliation had occurred (although there was no evidence that the Defendants had breached their duty to preserve relevant information), sanctions would be inappropriate since the video was of minimal relevance, given that the party's lone remaining dispute is over each party's perception of the pen incident, not the fact that such incident occurred. (Dkt. No. 72, at 9.) Furthermore, the magistrate found no potential for prejudice to Rothman even in the event of spoliation, given that he will have the opportunity to testify in open court about his recollection of the incident, and was already bound by the Court's order barring further discovery in this case.

Judge Wang's order was neither clearly erroneous, nor contrary to law, especially in light of this Court's scheduling order and discovery protocol. Plaintiff's objections are overruled, and the order on the sanctions motion is **AFFIRMED**.

Dated: May 18, 2020

A handwritten signature in black ink, appearing to read "Pollack".

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Chief Judge

BY ECF TO ALL PARTIES